



BEFORE THE MONTGOMERY COUNTY ETHICS COMMISSION

**Advisory Opinion No. 03-014
(Item 03-014)**

Section 19A-12(b)(1)(A)¹ of the ethics law states that a public employee cannot be employed by, or own more than one percent of, any business that negotiates or contracts with the County agency with which the public employee is affiliated, without a waiver from the Ethics Commission. A public employee who is a member of the Montgomery County Workforce Investment Board (WIB) asks whether he or she can respond to a Request For Proposal (RFP) from the County's Department of Economic Development (DED) for the provision of marketing services. We conclude that the employee can respond to the RFP, as indicated below, because the employee is not affiliated with DED.

Our opinion is based upon the following facts.

The employee is an uncompensated member of the WIB. Thus, the employee does not require Commission approval for outside employment under the Commission's outside employment regulation (No. 25-01).

DED staffs WIB, but WIB does not perform any oversight function over DED.

Neither the employee nor WIB participated in developing the RFP and neither will participate in reviewing the proposals or awarding the contract. Thus, there is no conflict under § 19A-11.

Finally, to ensure there is no conflict under § 19A-11 should DED choose the employee as the successful offeror, the employee must not participate in any WIB matter where the employee or the employee's company is a party.

FOR THE COMMISSION:

April 8, 2003

Elizabeth K. Kellar, Chair

¹ Except where indicated, all references are to the Montgomery County Code (1994), as amended.